**IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH**

**FAO No.5686 of 2014**

**Date of decision : 21.10.2016**

**Sudesh Sharma and another**

.....Appellants

*Versus*

**Janardhan Chaudhary and others**

...Respondents

**CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH**

Present: Ms. Ekta Thakur, Advocate for appellants.

Mr. Harsh Aggarwal, Advocate for
respondent No.3-Insurance Company.

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**DARSHAN SINGH, J.**

The present appeal has been preferred by the appellants-claimants against the award dated 05.04.2014, passed by learned Motor Accidents Claims Tribunal, Chandigarh (hereinafter called the "Tribunal"), vide which the appellants-claimants have been awarded compensation to the tune of ₹ 5,85,000/- on account of the death of Ishant Sharma, son of appellant-claimant No.1 and brother of appellant-claimant No.2, in the motor vehicular accident which took place on 28.09.2012.

2. The present appeal has been preferred by the appellants-claimants for the enhancement of the amount of compensation.

3. I have heard learned counsel for the parties and gone through the paper-book meticulously.

4. Learned counsel for the appellants contended that the deceased was 28 years of age. He was working as a cleaner on the truck

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owned by respondent No.2 *i.e.* his father and was earning ₹ 7000/- per month, but the learned Tribunal has not awarded any future prospects towards the income of the deceased. Thus, he contended that just amount of compensation has not been awarded to the appellants-claimants.

5. On the other hand, learned counsel for respondent-Insurance Company contended that the deceased was just working on the truck of his father. It is not expected that he might be getting any salary from his father. Thus, in fact he was a non-earning person. Thus, he contended that the just amount of compensation has been awarded.

6. I have duly considered the aforesaid contentions.

7. As per the case of the appellants-claimants, the deceased was working as a cleaner on the truck owned by respondent No.2 who happens to be his father and was getting ₹ 7000/- per month as salary. But this pea raised by the appellants-claimants is not supported from any documentary evidence and in the absence thereof, the learned Tribunal has rightly considered the deceased to be an unskilled labourer and determined his income to be ₹ 5000/- per month. The deceased was 28 years of age at the time of his accidental death. So, he was in the prime of his youth. Even if he might be working as a casual labourer, his income was bound to increase with the passage of time as it is a known fact that the income of nobody remains stagnant throughout his life time. That is why even the minimum wages are revised periodically by the State Government. So, the learned Tribunal was required to add the future prospects to the income of the deceased. As the deceased was 28 years of age at the time of accidental

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death, so 50% of his income is required to be added towards the future prospects. The total income of the deceased comes to ₹7500/- per month *i.e.* ₹90,000/- per annum. As the deceased was a bachelor, 50% of his income was required to be deducted towards his personal and living expenses. The remainder comes to ₹45,000/-. In view of the age of the deceased, the multiplier of 17 shall be applicable. Thus, the loss of dependency comes to ₹7,65,000/-.

8. The learned Tribunal has awarded ₹50,000/- to appellant-claimant No.1, the mother of the deceased, towards loss of love and affection of her son. The appellants-claimants have also been awarded a sum of ₹25,000/- towards funeral expenses. In this way, the appellants claimants shall be entitled to a total some of ₹8,40,000/-.

9. Thus, keeping in view my aforesaid discussion, the present appeal is hereby partly allowed. The amount of compensation payable to the appellants-claimants is enhanced to ₹ 8,40,000/- from ₹ 5,85,000/- as awarded by the Tribunal. The appellants-claimants shall also be entitled to interest at the rate as determined by the learned Tribunal on the enhanced amount from the date of filing the petition till realisation. The liability to pay the enhanced amount of compensation and the apportionment amongst the claimants shall remain in the same ratio as determined by the learned Tribunal in the main award.

10. As the matter with respect to future prospects has been referred to the Larger Bench of the Hon'ble Apex Court in case ***National Insurance Company Vs. Pushpa, (2015) 9 SCC 166***, in order to safeguard

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the interest of respondent No.3-Insurance Company, the amount of compensation under the head future prospects shall be disbursed to the claimants against adequate security in the form of sufficient indemnity bonds to the satisfaction of the learned Tribunal/executing Court, wherein the claimants will undertake that if the Hon'ble Apex Court adjudicates that the casual labourers/persons not holding the permanent jobs will not be entitled to the future prospects, then they will be bound to refund the amount of future prospects received by them on moving the requisite application by the respondent-Insurance Company and the learned Tribunal will be competent to take the steps without making any reference to this Court.

**21.10.2016** **( DARSHAN SINGH )**
*sunil yadav* **JUDGE**

**Whether speaking/reasoned : Yes / No**
**Whether reportable : Yes / No**

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